

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 61 Adoption Benefits  
**SPONSOR(S):** Roth  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 136

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Christy	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

In Florida, the Department of Children and Families (DCF) provides child welfare services. Statute requires child welfare services, including adoption services, to be delivered through community-based care lead agencies contracted by DCF.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunified with their parents. In 2015, the Legislature reestablished an adoption benefit program within DCF for state employees who adopt children from the foster care system. Qualifying adoptive employees receive a one-time benefit of \$10,000 for the adoption of a child with special needs and \$5,000 for the adoption of a child who does not have such needs. The program currently has a \$2,750,000 recurring general revenue appropriation. Funding is accessed on a first come, first serve basis; 225 employees received the adoption benefit in FY 2018-19.

A “qualifying adoptive employee” includes those individuals who are regular (not temporary) employees, either full- or part-time, of a state agency, which is defined to include:

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;
- A state university or Florida College system institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1000.30, F.S.;
- A water management district as defined in 373.019, F.S.; and
- The Florida School for the Deaf and Blind (limited to instructional personnel as defined in 1012.01, F.S.).

The term also includes full or part-time employees of charter schools or the Florida Virtual School. The term does not include temporary employees of these employers.

In order for an adoptive parent to qualify for the adoption benefit program for state employees, the adoptive parent must meet the requirements set out in statute at the time the adoption takes place.

The bill amends the definition of “qualifying adoptive employee” in s. 409.1664, F.S., to allow employers’ definitions of regular employees to include certain other-personal-services (temporary) employees for purposes of this benefit.

Additionally, the bill allows veterans or servicemembers domiciled within Florida who adopt a child within the child welfare system to also apply for this funding.

The bill does not have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Child Welfare System Adoptions

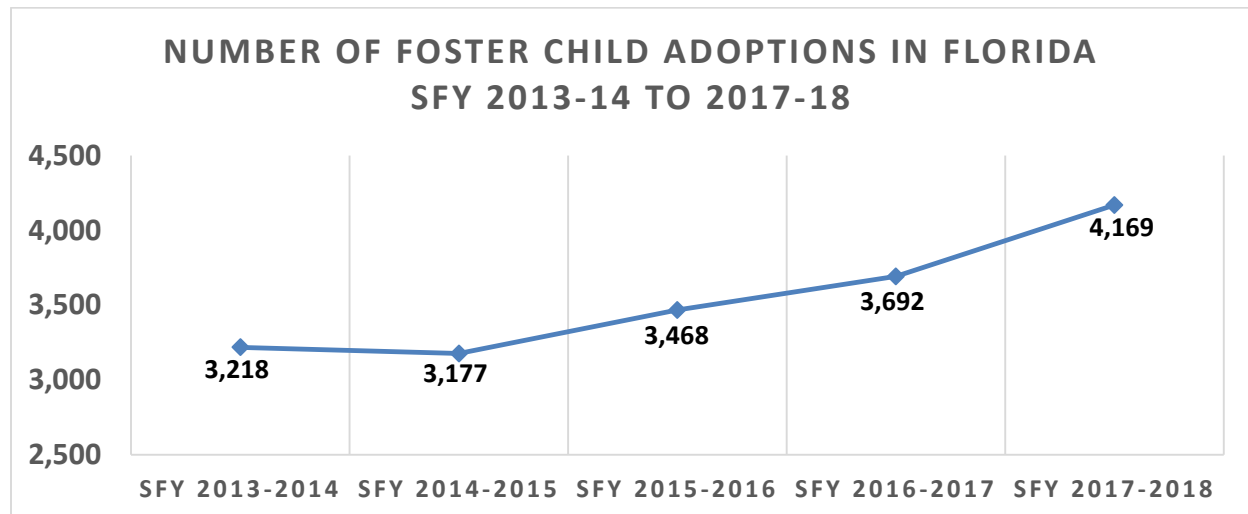
In Florida, the Department of Children and Families (DCF) provides child welfare services.<sup>1</sup> Statute requires child welfare services, including adoption services, to be delivered through community-based care (CBC) lead agencies contracted by DCF.<sup>2</sup> For example, CBC's provide pre- and post-adoption services and administer maintenance adoption subsidies which provide ongoing financial support for children adopted from the foster care system.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunited with their parents. Research indicates that children generally have better outcomes through adoption than through placement in long-term foster care.<sup>3</sup>

To become a licensed adoptive parent, an individual or couple must complete a licensing study class and complete a homestudy.<sup>4</sup> The typical time frame is less than nine months for the entire process, and there is little to no cost to adopt a child from the child welfare system through a CBC.<sup>5</sup>

##### Statistics on Florida Foster Care Adoptions

During FY 2017-18, 4,169 adoptions of children within the child welfare system were finalized in Florida.<sup>6</sup> Over the last five state fiscal years, the number of finalized adoptions in Florida has ranged from 3,218 to 4,169.<sup>7</sup>



<sup>1</sup> S. 20.19(4)(a)3, F.S.

<sup>2</sup> S. 409.986(1), F.S.

<sup>3</sup> Evan B. Donaldson Adoption Institute, Keeping the Promise: Critical Need for Post-Adoption Services to Enable Children and Families to Succeed, Oct. 2010, p. 8.

<sup>4</sup> Department of Children and Families, How Do I Become A Foster Parent?, <https://www.myflfamilies.com/service-programs/foster-care/how-do-i.shtml> (last viewed Oct. 22, 2019).

<sup>5</sup> Department of Children and Families, Frequently Asked Questions, 2015, <http://www.adoptflorida.org/faq.shtml> (last viewed October 22, 2019).

<sup>6</sup> Department of Children and Families, Adoption Incentive Annual Report, <https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/Adoption%20Incentive%20Annual%20Report%20with%20Appendices.pdf> (last viewed Sept. 30, 2019).

<sup>7</sup> Id.

Currently, in Florida, there are approximately 19,000 children in foster care.<sup>8</sup> As of October 2019, DCF reported there were 8,417 children with a primary goal of adoption.<sup>9</sup> Older children (especially teenagers) and sibling groups are likely to wait the longest for an adoptive family.

### State Employee Adoption Benefit

From 2000 through 2010, Florida offered an adoption benefit to state employees.<sup>10</sup> The program provided a one-time cash benefit to an employee of the state or a water management district who adopted a child. Qualifying employees adopting a child defined as “special-needs” under s. 409.166, F.S., were eligible to receive a monetary benefit of \$10,000 per child; qualifying employees adopting a child other than a “special-needs” child were eligible to receive a monetary benefit in the amount of \$5,000 per child.<sup>11</sup> This program also authorized the benefit for private and foreign adoptions.

The law was amended in 2001 to restrict the program to state employees who adopted a child from the foster care system.<sup>12</sup> The benefit program was expanded in 2007 to include country school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind as employees eligible to receive the benefit. The Legislature also transferred the program from the Department of Management Services (DMS) to DCF.<sup>13</sup> The program ended in 2010 when the statute was repealed and the funding ended.<sup>14</sup>

In 2015, the Legislature reestablished the adoption benefit program for state employees who adopt a child from the foster care system beginning on July 1, 2015. Adoptive employees may receive a one-time benefit of \$10,000 for a child with special needs and \$5,000 for the adoption of a child who does not have such needs.<sup>15</sup>

For purposes of the adoptive benefits program, a “special-needs” child is defined in s. 409.166(2), F.S., as:

- A child whose permanent custody has been awarded to DCF or to a licensed child-placing agency; and
- Who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is:
  - Eight years of age or older;
  - Developmentally disabled;
  - Physically or emotionally handicapped;
  - Of black or racially mixed parentage; or
  - A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- For whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy, except when the child is being adopted by the child’s foster parents or relative caregivers.

In order for an adoptive parent to qualify for the adoption benefit program for state employees, he or she must meet the statutory requirements at the time the adoption takes place. A “qualifying adoptive

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<sup>8</sup> AdoptUSKids, Florida Foster Care and Adoption Guidelines, <https://www.adoptuskids.org/adoption-and-foster-care/how-to-adopt-and-foster/state-information/florida#children> (last visited Sep. 30, 2018).

<sup>9</sup> Email from John Paul Fiore, Legislative Specialist, Department of Children and Families, RE: Information request (Oct. 10, 2019), on file with Children, Families, and Seniors Subcommittee staff.

<sup>10</sup> The term “employee of the state” was not defined in s. 110.152, F.S.

<sup>11</sup> S. 110.152, F.S. (2000)

<sup>12</sup> S. 110.152, F.S. (2001)

<sup>13</sup> S. 409.1663, F.S. (2007)

<sup>14</sup> Ch. 2010-152, L.O.F.

<sup>15</sup> S. 409.1664, F.S.

employee” includes those individuals who are regular (not temporary) employees, either full- or part-time, of:

- A branch, department, or agency of state government for which the Chief Financial Officer process payroll requisitions<sup>16</sup>;
- A state university or Florida College System institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1001.30, F.S.;
- A water management district as defined in s. 373.019, F.S.;
- A charter school established un s. 1002.33, F.S.; or
- The Florida Virtual School established under s. 1002.37, F.S.

A “qualifying adoptive employee” also includes instructional personnel<sup>17</sup> who are employed by the Florida School for the Deaf and the Blind.

In September 2019, the Chief Financial Officer processed payroll requisitions for 118,410 state employees (including all employees for the School of the Deaf and Blind).<sup>18</sup> In addition, as of the Fall 2019 semester, there are approximately 48,855 State University System employees<sup>19</sup> and approximately 46,326 Florida College System employees.<sup>20</sup> As of FY 2018-19, there were approximately 337,792 full-time school district employees in Florida.<sup>21</sup>

Adoption benefits are awarded to qualifying adoptive employees on a first-come, first-served basis, limited by the amount of appropriation each year. In FY 2018-19, 225 qualifying adoptive employees were approved for a total of \$3,050,000 in adoption benefits of an appropriated amount of \$2,750,000.<sup>22</sup>

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<sup>16</sup> These include the Legislature, Justice Administrative Commission, State Courts System, Governor’s Office, Department of Lottery, Department of Environmental Protection, Department of Economic Opportunity, Department of Legal Affairs, Department of Agriculture & Consumer Services, Department of Financial Services, Department of State, Department of Education, Florida School for the Death and Blind, Department of Veterans’ Affairs, Department of Transportation, Department of Citrus, Department of Children and Families, Public Service Commission, Department of Military Affairs, Department of Health, Department of Elder Affairs, Agency for Persons with Disabilities, Agency for Health Care Administration, Department of Corrections, Department of Law Enforcement, Department of Management Services, Division of Administrative Hearings, Department of Revenue, Department of Highway Safety and Motor Vehicles, Florida Fish & Wildlife Commission, Florida Commission on Offender Review, Department of Business & Professional Regulation, and Department of Juvenile Justice. This total includes 8,725 OPS employees. See email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Office of Chief Financial Officer, RE: Bill analysis and information request (Oct. 9, 2019), on file with Children, Families, and Seniors Subcommittee staff.

<sup>17</sup> “Instructional personal,” as defined in s. 1012.01(1), F.S., means any K-12 staff member whose function includes the provision of direct instructional services to students and whose functions provide direct support in the learning process of students.

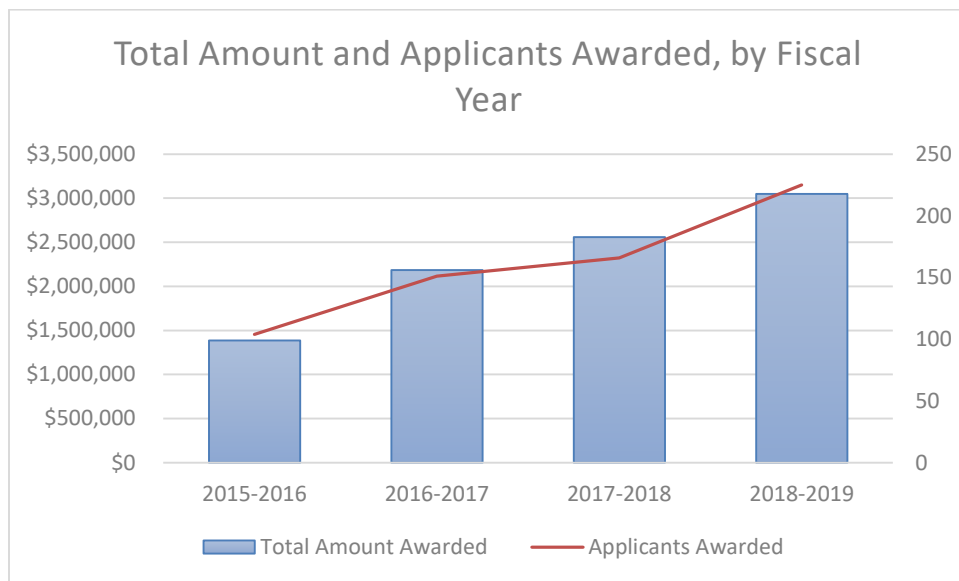
<sup>18</sup> Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Office of Chief Financial Officer, RE: Bill analysis and information request (Oct. 9, 2019), on file with Children, Families, and Seniors Subcommittee staff.

<sup>19</sup> Id.

<sup>20</sup> Florida Department of Education, *The Fact Book: Report for the Florida College System*, 2017, table 6.3T, available at <http://www.fldoe.org/accountability/data-sys/CCTCMIS/reports.shtml> (last viewed October 22, 2019). Note that this figure includes temporary employees.

<sup>21</sup> Florida Department of Education, *Staff in Florida’s Public Schools*, <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.shtml> (last viewed October 22, 2019).

<sup>22</sup> Supra, note 9.



### Other Personal Services Employees

Other Personal Services (OPS) employment is a temporary employment with the State of Florida used solely for accomplishing short term or intermittent tasks.<sup>23</sup> Unless specifically provided by law, OPS employees are not eligible for any form of paid leave, paid holiday, a paid personal day, participation in state group insurance<sup>24</sup> or retirement benefits, or any other state employee benefit.<sup>25</sup> OPS employees may be included in the agency's recognition and reward program that recognizes and rewards employees who submit innovative ideas that increase productivity, eliminate or reduce state expenditures, improve operations, or general additional revenue or who meet or exceed the agency's established criteria for a project or goal.<sup>26</sup>

An agency may employ any qualified individual in an OPS position; however, the agency must:

- Maintain employee records identifying the person employed, the hire date, and the type of OPS employment, and the number of hours worked;
- Determine the appropriate rate of pay and ensure the payments are in compliance with the federal Fair Labor Standards Act and state law; and
- Review, determine, and document by June 30 of each year whether the continuation of each OPS employment position is necessary to the mission of the agency.<sup>27</sup>

As of September 2019, DFS processed payroll for 8,725 OPS state employees.<sup>28</sup>

### Veterans and Servicemembers

#### *Veterans*

<sup>23</sup> F.A.C 60L-33.005.

<sup>24</sup> Beginning in January 1, 2014, an OPS employee who has worked an average of at least 30 or more hours per week during the measurement period describing in s. 110.123(13)(c) or (d), or who is reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program.

<sup>25</sup> S. 110.131(3), F.S.

<sup>26</sup> Id.

<sup>27</sup> S. 110.131(2), F.S.

<sup>28</sup> Supra, note 9.

The term “veteran” includes a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veteran Affairs (VA) on individuals discharged or released with other than honorable discharges.<sup>29</sup>

As of 2017, the VA estimated there were 20 million veterans living in the United States.<sup>30</sup> During this period, Florida had the third largest veteran population in the nation with approximately 1,525,400 veterans living in the state.<sup>31</sup>

### *Servicemembers*

The term “servicemember” means any person serving as a member of the United States Armed Forces<sup>32</sup> on active duty or state active duty<sup>33</sup> and all members of the Florida National Guard and United States Reserve Forces.<sup>34</sup>

As of June 2019, there are 64,915 Floridians serving in the United States Armed Forces and 37,003 serving in Florida’s National Guard and United States Reserve Forces.<sup>35</sup>

Therefore, 1,627,318 persons, if they meet the definition of veteran in s. 1.01(14), F.S., and the definition of servicemember in s. 250.01, F.S., may potentially apply for the adoption benefits program.

### *Adoption Benefits Available through the Military*

Eligible servicemembers on active duty may be reimbursed a maximum of \$2,000 per child for qualifying expenses related to the adoption of children under age 18, up to a maximum of \$5,000 per calendar year for multiple adoptions. The adoption must be arranged by a qualified adoption agency. Qualifying expenses include:

- Public and private agency fees including fees charged by an agency in a foreign country.
- Placement fees, including fees charged adoptive parents for counseling.
- Legal fees, including court costs, for services that not available from military legal assistance or notary offices.
- Medical expenses, including:
  - Hospital expenses of the biological mother of the Child to be adopted.
  - Hospital expenses of a newborn infant to be adopted.
  - Medical care given to the adopted child before the adoption.
  - Physical examinations of the biological mother of the child to be adopted
- Temporary foster care charges when payment of such charges is required to be made before the adoptive child's placement.<sup>36</sup>

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<sup>29</sup> S. 1.01(14), F.S.

<sup>30</sup> Florida Department of Veterans Affairs, *Fast Facts*, <http://floridavets.org/our-veterans/profilefast-facts/> (last visited October 22, 2019).

<sup>31</sup> *Id.*

<sup>32</sup> The United States Armed Forces consists of the Army, Marine Corps, Navy, Air Force, and Coast Guard.

<sup>33</sup> “State active duty” means full-time duty in active military service of the State of Florida when ordered by the Governor or Adjutant General to preserve the public peace, execute the laws of the state, suppress insurrection, repel invasion, enhance security and respond to terrorist threats or attacks, respond to an emergency, enforce the law, carry out counter-drug operations, provide training, provide for the security of the rights or lives of the public, protect property, or conduct ceremonies. The term also includes the period during which a person in active military service is absent from duty as a result of illness, being wounded, being on leave, or other lawful cause.

<sup>34</sup> S. 250.01, F.S.

<sup>35</sup> Defense Manpower Data Center, *DOD Personnel, Workforce Reports & Publications*, [https://www.dmdc.osd.mil/appj/dwp/dwp\\_reports.jsp](https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp) (last viewed October 22, 2019).

<sup>36</sup> U.S. Army, *My Army Benefits—Adoption Assistance*. <https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Adoption-Assistance?serv=122> (last viewed October 19, 2019).

Veterans with a service-connected disability that results in infertility are also eligible for similar adoption benefits.<sup>37</sup>

However, as there is little to no cost to adopt children through a CBC, servicemembers and veterans would likely incur minimal qualifying expenses, if any, for the adoption of a child within the child welfare system.

## Effect of Proposed Changes

The bill amends the definition of “qualifying adoptive employee” in s. 409.1664, F.S., to include OPS employees whose employers have defined them as regular employees for purposes of receiving this benefit. Such OPS employees must have been employed full-time or part-time by a state agency for one year. This will allow these employees to qualify to receive the adoption benefit for adopting a child from the child welfare system, provided funds are available and other requirements of rule and law are met.

Additionally, the bill creates a new subsection for s. 409.1664, F.S., to allow veterans and servicemembers domiciled<sup>38</sup> in the state who adopt a child within the child welfare system on or after July 1, 2020, to be eligible and apply for a adoption benefit award under s. 409.1664(2), F.S., regardless of whether the veteran or servicemember is a qualifying adoptive employee.

Thus certain OPS employees, veterans, and servicemembers meeting the requirements of the section may receive a monetary benefit of either \$5,000 or \$10,000 which they otherwise wouldn't have been eligible to receive.

The number of persons who can potentially apply for the adoption benefits will increase significantly. However, s. 409.1664(2)(c), F.S., limits payment of adoption benefits to funds specifically appropriated for that purpose. Thus while more individuals will be eligible, the number of individuals actually receiving a payment will be constrained based on the availability of funding, and thus individuals may need to be placed on a wait list or reapply in future years for funding.

## B. SECTION DIRECTORY:

**Section 1:** Amending s. 409.1664, F.S., relating to adoption benefits for qualifying adoptive employees of state agencies.

**Section 2:** Providing an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The payment of adoption benefits available under s. 409.1664, F.S., is subject to the availability of funds through a specific appropriation. Thus even if additional individuals are allowed to apply for benefits, the expenditure is capped. In FY 2019-20, the Legislature appropriated \$2.75 million for the program.

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<sup>37</sup> U.S. Department of Veterans' Affairs, *VAntage Point—VA Now Offers Adoption Reimbursement*. <https://www.blogs.va.gov/VAntage/47109/va-now-offers-adoption-reimbursement/> (last viewed October 19, 2019).



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

In FY 2018-19, DCF awarded benefits to 225 individuals, totaling \$3.05 million. This funding comprised \$2.75 million appropriated that fiscal year as well as reappropriated funds from previous years. Between FY 2015-16 and FY 2017-18, about 56% of the appropriation was used within each fiscal year, and the General Appropriations Act allowed DCF to carry-forward the unused funding. However, the 2019-20 General Appropriations Act did not authorize the carry-forward of any remaining funds.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to affect county or municipal governments.

**2. Other:**

Not applicable.

**B. RULE-MAKING AUTHORITY:**

The bill grants rulemaking authority for DCF to adopt rules to administer the adoption benefits for veterans or servicemembers who apply for the program. However, under s. 409.1664(6), F.S., DCF has rulemaking authority to adopt rules to administer the overall program.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**